

PREHEARING CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for)
Certification for the) Docket No. 99-AFC-9
WESTERN MIDWAY SUNSET)
COGENERATION COMPANY)
PROJECT)
_____)

CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
HEARING ROOM A
SACRAMENTO, CALIFORNIA

MONDAY, NOVEMBER 20, 2000

10:00 A. M.

Reported by:
Debi Baker
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBER PRESENT

Robert Pernell
Presiding Member

STAFF PRESENT

Major Williams, Jr., Hearing Officer

Ellen Townsend-Smith, Adviser to Commissioner
Pernell

David Mundstock, Senior Staff Counsel

Jack W. Caswell, Project Manager

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1 P R O C E E D I N G S

2 PRESIDING MEMBER PERNELL: Good morning
3 and welcome to the Prehearing Conference on Midway
4 Sunset Powerplant, Docket Number 99-AFC-9.

5 Before we begin this morning, I'd like
6 to introduce the dais and tell you who the
7 committees are and turn you over to the Hearing
8 Officer, which is Mr. Williams, who will be
9 conducting this morning's hearing.

10 First of all, to my right is my adviser,
11 Ellen Townsend-Smith and to my left is Mr.
12 Williams, Major Williams, Jr., who will be your
13 Hearing Officer.

14 This Committee is made up of two
15 Commissioners of five Commissioners on the Energy
16 Commission. Commissioner Robert Laurie, who is
17 not here today, he's on a plane as I speak going
18 to another hearing on some Commission business, is
19 the second member of this Committee.

20 My name is Commissioner Robert Pernell.
21 I'm the Presiding Member. Commissioner Laurie's
22 Adviser is Scott Tomashefsky.

23 And with that, I want to turn the
24 hearing over to our Hearing Officer, Major
25 Williams, who will be conducting the hearing. We

1 anticipate a noncontroversial hearing this
2 morning.

3 Mr. Williams.

4 HEARING OFFICER WILLIAMS: Good morning.
5 I think it would probably be appropriate at this
6 time for the parties to introduce themselves, if
7 you could do that.

8 MR. BROOKHYSER: My name is Donald
9 Brookhyser. I'm the attorney representing the
10 Applicant, Midway Sunset.

11 MR. WESTERN: And I'm Ed Western. I'm
12 the Executive Director of Midway Sunset
13 Cogeneration Company.

14 SENIOR STAFF COUNSEL MUNDSTOCK: I'm
15 David Mundstock, attorney for the California
16 Energy Commission staff.

17 PROJECT MANAGER CASWELL: And I'm Jack
18 Caswell, Project Manager for the Energy Commission
19 on this project.

20 HEARING OFFICER WILLIAMS: I also see
21 some members in the gallery. I would ask those
22 public members to speak up at this time and
23 introduce themselves.

24 MR. BROOKHYSER: Mr. Williams, they're
25 all staff people with Midway Sunset. Do you still

1 wish them to introduce themselves?

2 HEARING OFFICER WILLIAMS: Okay. That's
3 not necessary, I don't think if they're all staff
4 folks.

5 MR. BROOKHYSER: I think they all are.

6 HEARING OFFICER WILLIAMS: Okay.

7 PRESIDING MEMBER PERNELL: There is no
8 one representing CURE?

9 Any intervenors?

10 Public Adviser?

11 HEARING OFFICER WILLIAMS: I don't see
12 the Public Adviser here either.

13 Okay. So we'll move right along.

14 Staff filed its final staff analysis on
15 November 14th, 2000. Evidentiary hearings are
16 tentatively scheduled for December 13th and 14th.

17 As I understand it we are awaiting
18 certain reports, such as the FDOC from the air
19 district and the U. S. Fish and Wildlife Services
20 biological opinion, as well as the California Fish
21 and Game's incidental take permit.

22 In addition, as I understand it, the
23 Cal-ISO is reviewing PG&E's detailed facility
24 study and staff was awaiting waste discharge
25 requirements from the Central Valley Regional

1 Water Quality Control Board. Because these
2 reports have not been received from the various
3 agencies, the impact on our schedule at this time
4 is uncertain.

5 Staff and the FSA has included proposed
6 conditions of certification that address the
7 anticipated findings to be contained in the
8 various reports. The Committee at this time would
9 like an update from the parties on the status of
10 the various reports and your thoughts on how they
11 will impact our schedule.

12 I think we ought to start with the
13 Applicant and, staff, we'll get to you, unless --

14 MR. BROOKHYSER: It is our understanding
15 that the final determination of compliance from
16 the San Joaquin Air District should be received
17 before the hearing, as well as the report from the
18 ISO.

19 In terms of the -- and I think those are
20 the two major contingencies upon which the hearing
21 might be dependent. And so at this point the
22 Applicant thinks it would be wise to continue to
23 schedule the hearing for December 13th and we
24 believe we can proceed at that point.

25 In terms of the U. S. Fish and Wildlife

1 biological opinion, as I understand it, that would
2 not be an essential prerequisite for the issuance
3 by this Commission of the Determination of
4 Compliance for the certificate, but I certainly
5 would ask staff to confirm that.

6 HEARING OFFICER WILLIAMS: Staff?

7 SENIOR STAFF COUNSEL MUNDSTOCK: Yes, we
8 agree with the Applicant. But the one document
9 you need to have is the final Determination of
10 Compliance from the air district and we believe
11 you will have it prior to the hearing dates that
12 you have tentatively scheduled, so that there will
13 be no delay caused by the air district.

14 We think it is clearly advisable to have
15 the most final review from the ISO and they have
16 been providing documents indicating that there are
17 no issues there and everything they can provide
18 certainly will be provided by the hearing date.
19 So, once again, there is no problem and no reason
20 to delay the schedule.

21 Now the other two matters are
22 essentially federal permits. The California
23 Regional Water Quality Control Board, that
24 discharge permit is normally treated as a post-
25 certification permit and we have provided a

1 condition of certification so identifying it. And
2 that is not the kind of permit that is likely to
3 be issued precertification nor reviewed by the
4 staff or the Committee precertification.

5 It's certainly review post-
6 certification, but there are no issues that are
7 likely to arise out of a post-certification
8 permit, and so it is not a part of your schedule
9 concerns.

10 The same is true for the U. S. Fish and
11 Wildlife Service biological opinion. It would be
12 helpful to have it, but it's a federal opinion
13 entirely under federal law and it can also be
14 post-certification. Again, it would be helpful to
15 have it prior to certification, but it's not
16 required and you can go forward without it.

17 The same is also true of the state
18 equivalent of the take permit which actually is
19 only issued post-certification. So that you are
20 not held to the schedule of these other agencies
21 and you can move forward on your schedule.

22 HEARING OFFICER WILLIAMS: Well, thank
23 you, Mr. Mundstock.

24 PRESIDING MEMBER PERNELL: One question.
25 However, our final -- we're anticipating a final

1 by March of 2001, so is your understanding that
2 these permits will be in from the various agencies
3 by then?

4 SENIOR STAFF COUNSEL MUNDSTOCK:

5 Certainly the staff cannot provide a guarantee to
6 you of when a federal agency will issue a federal
7 permit. It's our position that, as regards the
8 three I've mentioned, which is the Fish and Game,
9 the U. S. Fish and Wildlife Service biological
10 opinion and the discharge permit by the Regional
11 Quality Control Board, that none of these are
12 prerequisites to certification.

13 Two of them are post-certification in
14 their very nature and the U. S. Fish and Wildlife
15 Service biological opinion is a purely federal
16 opinion that the Applicant must have and it will
17 certainly affect their construction date. But it
18 is not something that you must have as a
19 prerequisite to issuing a license for this AFC,
20 and that it would be, in staff's opinion, a
21 scheduling error to wait for it and hold it as
22 controlling.

23 PRESIDING MEMBER PERNELL: Right. I'm
24 not suggesting that we wait for it. I mean I
25 think that the dates on the 13th and 14th, that's

1 on the schedule now, seems to be legitimate dates
2 and everyone can make those.

3 However, as we move forward we want
4 everybody, by the final, to have all of the
5 various reports in. And what I'm hearing you say
6 is some of those we don't need. We can issue a
7 license without the federal report?

8 SENIOR STAFF COUNSEL MUNDSTOCK: Yes.
9 You are not held to ensuring that the federal
10 agencies have completed all of their
11 responsibilities by a given date, because the
12 Applicant must obtain those federal permits in
13 accordance with federal law, but that is not this
14 Committee's or this Commission's responsibility.

15 PRESIDING MEMBER PERNELL: Right, and
16 perhaps we can talk about this. But I understand
17 that we have to, the Applicant has to adhere to
18 all laws and if the federal requirement is one of
19 those, then they have to have that, is that
20 correct?

21 SENIOR STAFF COUNSEL MUNDSTOCK: Well,
22 they will have to obtain the necessary permits,
23 but you will not have to write in the decision
24 that they have already obtained them. They can be
25 post-certification.

1 The Discharge Permit is the clearest
2 example of that, because it is traditionally, has
3 always been looked at, as a post-certification
4 permit. If you look at the staff's proposed
5 condition of certification, Water Five, let me
6 find that in the FSA, let me find the right page
7 for that.

8 PROJECT MANAGER CASWELL: Maybe I can
9 help you with a little information on this. We
10 have received some draft documents, proposing some
11 conditions from the U. S. Fish and Wildlife and
12 those were incorporated into staff's assessment in
13 the biology section. So we don't anticipate any
14 unforeseen conditions or anything new, except we
15 can't give you the complete final, because we've
16 got to polish it up. But here's our draft and
17 this is pretty much what we're going to do.

18 So we incorporated that into our staff
19 assessment for this FSA.

20 SENIOR STAFF COUNSEL MUNDSTOCK: On the
21 subject of the Central Valley Regional Water
22 Quality Control Board, on page 348 of the Final
23 Staff Assessment, if you want to turn to that
24 page, in our soil and water condition five we
25 specifically state that the Applicant must obtain

1 this permit prior to operation. And prior to
2 operation makes it quite clear, it's a post-
3 certification permit.

4 PRESIDING MEMBER PERNELL: This is what
5 you state?

6 SENIOR STAFF COUNSEL MUNDSTOCK: This is
7 our proposed condition of certification under soil
8 and water. It's on page 348 on the Final Staff
9 Assessment, it's condition five. And this is our
10 clearest way of describing a post-certification
11 permit, because it is actually tied to operation,
12 because you can build -- here is a situation where
13 an Applicant can actually build a project. They
14 simply can't operate it until they have obtained
15 this post-certification permit, this federal
16 permit.

17 PRESIDING MEMBER PERNELL: I'm not
18 arguing the point, I just want to make sure when
19 we get down to the end and the Applicant has
20 complied with all of the staff recommendations and
21 whatever mitigation they have to do, that when it
22 come to the full Board that we're in a position,
23 the Committee is in a position to recommend
24 licensing the project.

25 SENIOR STAFF COUNSEL MUNDSTOCK: If this

1 were based on that condition, you clearly would
2 be.

3 PRESIDING MEMBER PERNELL: That's fine.

4 SENIOR STAFF COUNSEL MUNDSTOCK: Because
5 Committee's do not -- this is a very good example
6 of a permit that Committee's never wait for.

7 PRESIDING MEMBER PERNELL: Okay.

8 HEARING OFFICER WILLIAMS: Okay. Then
9 it appears as if all parties agree that we're on
10 schedule now for the 13th and the 14th.

11 In regards to our schedule, the
12 Committee wishes to hear from the parties on how
13 the evidence will be presented. Therefore, we'll
14 turn to the topic areas.

15 I distributed a table for discussion
16 that lists the topics and I think it would be
17 helpful if we just go down the list and, as I
18 understand it, most of the topics are uncontested,
19 if not all. We need to discuss which topics are
20 subject to adjudication and when.

21 So, again, I think we can start with the
22 Applicant and get a sense of how Applicant wishes
23 to proceed. I also understand that perhaps staff
24 and the Applicant are proposing to submit
25 testimony by declaration. Testimony may be

1 submitted by declaration with the proviso that
2 witnesses are subject to cross examination.

3 If a party intends to cross examine
4 witnesses on any given topic, you must indicate
5 your intent today, so that the witness can plan to
6 attend the hearing. If a party contests the
7 testimony of another party, we expect you to
8 indicate the basis of your objection, identify
9 your witnesses and whether the topic should be
10 scheduled for December 13th or 14th or some later
11 time.

12 Applicant.

13 MR. BROOKHYSER: Thank you. It is
14 correct that Mr. Mundstock and I have talked about
15 the method for presentation. And for all the
16 topics areas other than the one or two that may be
17 uncertain at this point, I certainly think we can
18 do it by declaration, and that would serve the
19 Commission's purposes, understanding that the
20 witnesses would be available for cross
21 examination.

22 So, as to all areas, except at this
23 point air quality, I think we're prepared to agree
24 that we could present the testimony by
25 declaration.

1 With regard to air quality, again, it's
2 uncertain what the final -- we can't be sure what
3 the final determination of compliance from the air
4 district will be and how the staff might receive
5 that and what additional conditions for
6 certification there may be. So, at this point I
7 think we need to leave that area open and be
8 prepared to present a witness with live testimony
9 or supplement pre-filed testimony on the air
10 quality issue.

11 HEARING OFFICER WILLIAMS: After the
12 hearing today, the Committee will be issuing a
13 notice of evidentiary hearing, so it's important
14 that we line up the topics and the dates
15 appropriately as you see fit.

16 So, with that comment, I turn to staff
17 now to get your thoughts on the issue of
18 declarations perhaps.

19 SENIOR STAFF COUNSEL MUNDSTOCK: Staff
20 has offered all subject areas can be taken by the
21 Committee through declaration. There are no
22 contested areas as between staff and Applicant and
23 we believe that once the final DOC is received it
24 will still not be contested between staff and
25 Applicant. So, it's --

1 PRESIDING MEMBER PERNELL: Do we -- I'm
2 sorry, go ahead -- just a question, do we have any
3 intervenors on file?

4 PROJECT MANAGER CASWELL: Yes, we do,
5 CURE, the San Luis Obispo Air Pollution Control
6 District, I believe Coyote Industrial Park was
7 another one. There has not been any active
8 participation as far as showing up and being
9 open -- any open contesting of any of the issues
10 by any of these individuals.

11 SENIOR STAFF COUNSEL MUNDSTOCK: We've
12 been unable to find a prehearing conference
13 statement filed by any other party besides staff
14 and Applicant. We have looked, but we know of
15 none. I mean if there is one, it's escaped us.

16 HEARING OFFICER WILLIAMS: Well,
17 certainly that would indicate, if nothing else I
18 guess, a lack of interest.

19 PROJECT MANAGER CASWELL: I agree.

20 SENIOR STAFF COUNSEL MUNDSTOCK: So, as
21 far as staff is concerned, air quality can be
22 taken through declarations also. But that's, of
23 course, assuming that the final DOC is similar to
24 the preliminary DOC from the air district, and
25 that's what we believe will be the case.

1 PRESIDING MEMBER PERNELL: Okay, so, one
2 final question, and that is -- well, not the final
3 question, but a question. When we do this by
4 declaration that is simply filing briefs to the
5 subject area and there is no testimony?

6 MR. BROOKHYSER: Commissioner, if I
7 might, there is written testimony prepared and
8 filed with the Commission. And the testimony
9 contains a declaration at the end, an oath by the
10 witness that everything in the testimony is true
11 and correct.

12 PRESIDING MEMBER PERNELL: Okay.

13 SENIOR STAFF COUNSEL MUNDSTOCK: So, for
14 example, for staff -- I'm sorry to interrupt.

15 MR. BROOKHYSER: So the parties agree
16 that that testimony may be received in writing,
17 based on that declaration, without the witness
18 needing to be sworn and actually answer the
19 questions orally in the hearing.

20 The witness is put on the stand if staff
21 or any other party wanted to cross examine. The
22 witness would be in the room, would be available
23 for cross examination or questions from the
24 Commission, if that's desired.

25 But if there are no questions either

1 from the party or the Commission, then basically
2 all the testimony comes in through writing and the
3 hearing is very short.

4 SENIOR STAFF COUNSEL MUNDSTOCK:

5 Commissioner, you have the staff testimony, it is
6 the final staff assessment. It contains the
7 declarations of the witnesses in each subject
8 area, swearing to the truth of the testimony they
9 provided, and so that would be the basis of the
10 record. And you would take it into evidence at
11 the hearing, would be the staff submittal --

12 PRESIDING MEMBER PERNELL: I understand.

13 Let me tell you what my concern is, and surely if
14 we could do all this by declaration, it would be
15 great. But the next time we have a meeting on
16 this issue is going to be out in the community and
17 if we have intervenors and everything is by
18 declaration and no one is -- and they can't
19 interject any of their concerns, I want to be able
20 to have an open process.

21 I mean that's what this process is
22 about. So, I guess my question is if we do all of
23 this by declaration, does it still allow some of
24 the people -- when we go down in the community to
25 have this meeting, does it allow them to ask

1 questions or whatever?

2 HEARING OFFICER WILLIAMS: One second,
3 let me confer with Commissioner Pernell.

4 We're off the record.

5 (Thereupon a recess was
6 taken.)

7 PRESIDING MEMBER PERNELL: All right, we
8 want to do the next meeting, the 13th and 14th, if
9 necessary down in the community. And that doesn't
10 mean that we can't do this by declaration if the
11 staff and the Applicant so desire and there's no
12 objections to doing that. But, it's the
13 Committee's opinion that when we get into
14 substantive issues we should allow residents of
15 the community, whether they want to or not, if no
16 one shows up, that's fine too, but we should make
17 ourselves available for them to ask both staff and
18 Applicant questions if they so desire.

19 So what the Committee wants to do, will
20 do in this case, is the next -- on December 13th
21 we'll be in the community at a place to be
22 announced by the Hearing Officer and we can go
23 forward with the various declarations, if there's
24 no objections to that.

25 Are there any questions on that?

1 HEARING OFFICER WILLIAMS: Are the
2 parties prepared to stipulate that there are no
3 disputed issues?

4 SENIOR STAFF COUNSEL MUNDSTOCK: No
5 issues in dispute and that we have no desire to
6 cross examine any of the Applicant's witnesses.

7 HEARING OFFICER WILLIAMS: Applicant?

8 MR. BROOKHYSER: With the possible
9 exception of air quality, there are no disputed
10 issues at this point.

11 HEARING OFFICER WILLIAMS: Are the
12 parties prepared to agree on a date for serving
13 the filing of the declarations?

14 SENIOR STAFF COUNSEL MUNDSTOCK: Ours
15 have been filed.

16 MR. BROOKHYSER: And we actually need to
17 prepare the testimony as well as prepare
18 declarations, so we would, I guess like as short a
19 period of time before the hearing as possible,
20 whatever the Commission desires, for necessary
21 preparation.

22 HEARING OFFICER WILLIAMS: And of course
23 the parties should be prepared to stipulate their
24 agreement with all prefiled testimony. So, I
25 guess we can take that issue up again at the

1 hearing on the 13th.

2 Yes?

3 SENIOR STAFF COUNSEL MUNDSTOCK: I think
4 Mr. Western wanted to remind the Committee that
5 the prior Application for Certification from the
6 eighties did have the hearings all in Sacramento.

7 PRESIDING MEMBER PERNELL: From the
8 eighties?

9 SENIOR STAFF COUNSEL MUNDSTOCK: They
10 certified a cogeneration facility many years ago
11 and there was no local interest, this being the
12 oil fields, and I think that should be just
13 mentioned as an option for the Committee to
14 consider. It's obviously the Committee's
15 selection, but the hearing could be held in
16 Sacramento. And there's one advantage to doing
17 that that the staff witnesses -- that if an
18 intervenor comes and wishes to ask questions and
19 the Committee allows it, the staff witness is more
20 likely to be available if we're in Sacramento.

21 And this kind of proceeding, which is
22 uncontested as to the main parties and where there
23 is no known local opposition, you can hold
24 evidentiary hearings in Sacramento. It's been
25 done many times before.

1 PRESIDING MEMBER PERNELL: I understand
2 that, but it is the Committee's desire to be down
3 in the community and so that's where we'll be.

4 HEARING OFFICER WILLIAMS: And in that
5 regard, again, we can talk. The Public Adviser is
6 not here, unfortunately, but we can certainly
7 query the Public Adviser as to the likelihood of
8 any interest and in what areas and, if so, perhaps
9 we could have those folks on telephone standby, if
10 need be.

11 So, we will be proceeding with the
12 hearing in the vicinity of the proposed facility.

13 MR. BROOKHYSER: Mr. Williams, if I
14 could just express a concern in that regard, and
15 we obviously want to have the hearing proceed
16 expeditiously on the 13th and possibly on the
17 14th, and so I wouldn't want to have to continue
18 the hearing or postpone it because staff witnesses
19 were not available.

20 So, if we can have some -- I suppose
21 it's something we can do informally, but,
22 especially if the Commission is willing to take
23 staff testimony via phone, if there is someone who
24 wants to cross examine the staff, I guess that
25 solves it. But we need to have some arrangement

1 so that the hearing can be completed at that time.

2 HEARING OFFICER WILLIAMS: Yes, I agree.

3 So we do need to touch base with the Public
4 Adviser and find out if there is any likelihood of
5 any participation and, if so, in what areas, so
6 that those staff witnesses will be available and
7 Applicant's witnesses, as well, will be available,
8 perhaps by telephone. I think that's the most
9 sensible way to handle it at this point.

10 Okay. All right. Are there any further
11 comments by the parties?

12 MR. BROOKHYSER: No.

13 SENIOR STAFF COUNSEL MUNDSTOCK: No.

14 HEARING OFFICER WILLIAMS: Are there any
15 members of the public present? I did see some
16 people come in during the process and I recognize
17 some of the staff faces, but I don't recognize
18 them all. But, seeing none, I will assume that we
19 don't have any public members here.

20 Is there any additional information that
21 the parties feel they need at this point?

22 SENIOR STAFF COUNSEL MUNDSTOCK: No.

23 MR. BROOKHYSER: No.

24 HEARING OFFICER WILLIAMS: Okay. Well,
25 I think with that, we've covered what we need to

1 cover this morning. Based upon the hearing today,
2 the Committee will issue a hearing order that will
3 specify the location of the hearing and will also
4 specify the schedule of evidentiary hearings.

5 And, again, I'm assuming that, other
6 than the air quality topic, there's no particular
7 order that we need to discuss our topics in,
8 whatever is best, whatever feels best for the
9 Committee, is that right?

10 MR. BROOKHYSER: We suggested an order
11 in our prehearing statement, I think at least the
12 project description topic should go first, just to
13 cover general questions about the project, if
14 there are any. But other than that I don't think
15 there's any particular order that needs to be
16 followed.

17 It also, I think as you're indicating,
18 would be helpful to have the air quality area
19 reserved for a specific time, so that we know we
20 have our witnesses available for that.

21 HEARING OFFICER WILLIAMS: Yeah, my
22 thought right now is to reserve the 14th for air
23 quality and perhaps try to get through all the
24 other topics on the 13th.

25 SENIOR STAFF COUNSEL MUNDSTOCK: Mr.

1 Williams, I think it might be easier to propose to
2 schedule everything on the first day, in the hope
3 you can finish on the first day, rather than
4 mandate a two-day hearing, because there may not
5 be any subject to talk about on the first day,
6 besides air quality.

7 MR. BROOKHYSER: I think that's correct.

8 HEARING OFFICER WILLIAMS: Okay. So
9 I'll go ahead and do that and we'll reserve the
10 14th then as a backup in case we run into some
11 unforeseen problem.

12 MR. BROOKHYSER: But I assume that your
13 hearing order will also specify a date when the
14 Applicant is to file testimony?

15 HEARING OFFICER WILLIAMS: That's right.
16 And I will certainly take in regard your comment
17 that you would like as short a period as possible
18 prior to the actual hearing.

19 MR. BROOKHYSER: Thank you.

20 SENIOR STAFF COUNSEL MUNDSTOCK: Staff
21 may be amending its testimony here and there,
22 correcting errors and you can expect those
23 amendments and revisions pretty much periodically
24 on a continuous basis. They won't affect anything
25 substantively, but that's simply, staff is trying

1 to get as much right as we can.

2 HEARING OFFICER WILLIAMS: I think the
3 Committee also had proposed one other status
4 report, I'm not sure, prior to the 14th. But
5 certainly if there is a status report scheduled,
6 then I would like at least for the Applicant to
7 address -- the Applicant and staff to address,
8 perhaps after talking with the Public Adviser, the
9 question of what, if any, witnesses should be
10 available by telephone and the likelihood of those
11 witnesses needing to testify.

12 Again, from everything I've heard we
13 expect no interest whatsoever, but I'd like some
14 confirmation of that, so we don't get into a
15 situation down there where we have to scramble to
16 try to get people to speak to an issue.

17 So that's one area that we need to look
18 at.

19 I do believe that there is a status
20 report, a final status report due, but certainly,
21 even if there is not, the Committee would
22 entertain any comments from the parties on that
23 particular question. Is that clear?

24 MR. BROOKHYSER: Yes.

25 HEARING OFFICER WILLIAMS: Okay.

1 PRESIDING MEMBER PERNELL: All right.

2 Is there a timeframe that you anticipate in
3 getting the hearing order out?

4 HEARING OFFICER WILLIAMS: Tomorrow.

5 PRESIDING MEMBER PERNELL: Tomorrow.

6 HEARING OFFICER WILLIAMS: We'll try to
7 get it out tomorrow.

8 PRESIDING MEMBER PERNELL: Okay.

9 HEARING OFFICER WILLIAMS: That might be
10 pressing it, but I think we probably, with the
11 holiday coming up, I would like to get it out very
12 quickly.

13 PRESIDING MEMBER PERNELL: All right.

14 HEARING OFFICER WILLIAMS: But there is
15 the issue of lining up a location, but if we can
16 get on top of that right away.

17 PRESIDING MEMBER PERNELL: And you'd get
18 the Hearing Officer involved in that in terms of
19 lining up a location? I think we were at City
20 Hall last time.

21 HEARING OFFICER WILLIAMS: Right, for
22 the informational hearing, if that's available.

23 PRESIDING MEMBER PERNELL: Okay. Are
24 there any other final comments? Any questions?
25 I've got to say this is going great.

1 This is going great. If there's nothing else to
2 come before this hearing, this hearing is
3 adjourned. Thank you.

4 (Thereupon the California
5 Energy Commission Prehearing
6 Conference on Midway Sunset
7 was adjourned at 10:40 a.m.)

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CERTIFICATE OF REPORTER

I, DEBI BAKER, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Prehearing Conference; that it
was thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
Prehearing Conference, nor in any way interested
in the outcome of said Prehearing.

IN WITNESS WHEREOF, I have hereunto set
my hand this 4th day of December, 2000.

DEBI BAKER

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